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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/809,973 | 03/25/2004 | Wolfgang Senge | 12431/3 | 7896 |

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| EXAMINER |
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COCKS, JOSIAH C

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| ART UNIT | PAPER NUMBER |
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3749

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/809,973

Applicant(s)

SENGE, WOLFGANG

Examiner

Josiah Cocks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/25/2005
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on applications filed in Germany on 3/26/2003 and 7/8/2003. It is noted, however, that applicant has not filed a certified copy of the German applications as required by 35 U.S.C. 119(b).

Drawings

2. The drawings filed 3/25/2004 are accepted by the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 11-13, 15-21, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,300,556 to Ochi et al. ("Ochi").

Ochi discloses in Figures 1-18 the invention as described in applicant's claims 11-13, 15-21, and 23. In particular, Ochi shows a beauty device in which water supplied via nozzle (8) to a chamber (10) is heated by means of a heater (16). This chamber (10) is considered to be the boiling chamber recited in applicant's claims. Further, the device in Ochi includes a reservoir (3), a collection chamber (12), and an inflow pipe (7) coupling the reservoir to the boiling

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chamber to steam openings (11). The reservoir (3) is located below the collection chamber (12) and the boiling chamber (10).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-10, 14, 22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ochi, as applied to the claims above, in view of U.S. Patent No. 5,607,409 to John ("John").

Ochi discloses all the limitations of claims 1-10, 14, 22, and 24 except for the presence of a herb pot for enriching the steam with essential oils or possibly for a removable lid over the steam space.

John teaches a steam treatment device that is considered to be in the same field of endeavor as Ochi. In John, the treatment device includes an herb pot (24) located above a water reservoir (11) for allowing therapeutic substances, such as herbs (see col. 3, lines 55-57) to be mingled with steam. John further includes a removable lid (26)

Therefore, in regard to claims 1-10, 14, 22, and 24, it would have been obvious to a person of ordinary skill in the art at the time of the invention would have modified the device of Ochi to incorporate the herb pot of John to desirably allowing herbs to mixed with steam to provide for enhanced skin treatment and aromatherapy (see John, col. 2, lines 36-45). Further, it

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would have been obvious to modify Ochi to incorporate the lid of John to desirably firmly lock a container compartment and force steam out through its intended path (see John, col. 3, lines 60-63).

Conclusion

7. This action is made non-final. A THREE (3) MONTH shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents to Nowak, Huck, Walker, and Chien, and French Patent No. 2 460 644 are cited to further show the state of the art concerning steam treatment and vaporizing devices.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (571) 272-4877. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

jcc
June 12, 2005


JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749